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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 2010-71

14 **JUDY LYNN HESTER**
aka JUDY BAXTER
15 2101 Davis Place
Mount Shasta, California 96067

ACCUSATION

16 Registered Nurse License No. 545229

17 Respondent.
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20 Louise R. Bailey, M.Ed, RN, Interim Executive Officer ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Accusation solely in her official capacity as the Interim
23 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
24 Affairs.

25 2. On or about July 13, 1998, the Board issued Registered Nurse License Number
26 545229 to Judy Lynn Hester, also known as Judy Baxter ("Respondent"). The Registered Nurse
27 License was in full force and effect at all times relevant to the charges brought herein and will
28 expire on April 30, 2010, unless renewed.

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2 **DRUGS**

3 8. "Demerol," a brand of meperidine hydrochloride, a derivative of pethidine, is a
4 Schedule II controlled substance as designated by Health and Safety Code section 11055(c)(17).

5 9. "Marijuana" is a Schedule I controlled substance as designated by Health and
6 Safety Code section 11054(d)(13).

7 **RESPONDENT'S TERMINATION**
8 **FROM BOARD'S DIVERSION PROGRAM**

9 10. Between 2002 and March 2006, Respondent participated in the Board's Diversion
10 Program. In or about March 2006, Respondent was terminated from the Diversion Program for
11 noncompliance due to the following:

- 12 a. In or about September 2005, Respondent tested positive for Demerol.
13 b. In or about March 2006, Respondent tested positive for Marijuana.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Obtain, Possess and Self-Administer Controlled Substances)**

16 11. Respondent is subject to discipline under Code section 2761(a), on the grounds of
17 unprofessional conduct as defined in Code section 2762(a), in that on or about
18 December 24, 2001, April 8, 2002, and September 6, 2002, while employed as a registered nurse
19 at Mercy Medical Center Mount Shasta, Mount Shasta, California, Respondent did the
20 following:

- 21 a. Respondent obtained Demerol, a controlled substance, by fraud, deceit,
22 misrepresentation or subterfuge or by the concealment of a material fact in violation of Health
23 and Safety Code section 11173(a), by taking Demerol for her own personal use from
24 discontinued PCA (patient controlled analgesia) pumps and refilling them with water.
25 b. Respondent possessed Demerol, a controlled substance, in violation of Code section
26 4060, in that Respondent did not have a prescription for that controlled substance.
27 c. Respondent self-administered Demerol, a controlled substance, without direction to do
28 so from a licensed physician and surgeon, dentist or podiatrist.

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SECOND CAUSE FOR DISCIPLINE

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(Obtain, Possess and Self-Administer Controlled Substances)

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12. Respondent is subject to discipline under Code section 2761(a), on the grounds of unprofessional conduct as defined in Code section 2762(a), in that in or about September 2005, while employed as a registered nurse at Shasta Healthcare, Redding, California, Respondent did the following:

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a. Respondent obtained Demerol, a controlled substance, by fraud, deceit, misrepresentation or subterfuge or by the concealment of a material fact in violation of Health and Safety Code section 11173(a), by taking Demerol from a patient-controlled analgesia ("PCA") pump for her own personal use.

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b. Respondent possessed Demerol, a controlled substance, in violation of Code section 4060, in that Respondent did not have a prescription for that controlled substance.

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THIRD CAUSE FOR DISCIPLINE

(Possessed and Self-Administered a Controlled Substance)

13. Respondent is subject to discipline under Code section 2761(a), on the grounds of unprofessional conduct as defined in Code section 2762(a), in that in or about March 2006, while licensed as a registered nurse, Respondent did the following:

a. Respondent possessed Marijuana, a controlled substance, in violation of Code section 4060, in that Respondent did not have a prescription for that controlled substance.

b. Respondent self-administered Marijuana, a controlled substance, without direction to do so from a licensed physician and surgeon, dentist or podiatrist.

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4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Use of a Controlled Substance)**

6 14. Respondent is subject to discipline under Code section 2761(a), on the grounds of
7 unprofessional conduct as defined in Code section 2762(b), in that while on duty as a registered
8 nurse at Mercy Medical Center Mount Shasta, Mount Shasta, California, Respondent used a
9 controlled substance, as set forth above in paragraph 11, to an extent or in a manner dangerous or
10 injurious to herself, any other person, or the public or to the extent that such use impaired her
11 ability to conduct with safety to the public the practice authorized by her license, as more
12 particularly set forth below:

13 a. On or about December 24, 2001, Respondent appeared spacey, very tired, dozing off,
14 very disorganized, and three of her patients rooms were very messy. Further, her manual
15 dexterity appeared to be off, in that Respondent would reach for an item and would miss it and
16 would have to reach again to get the item.

17 b. On or about September 6, 2002, Respondent was found by a co-worker hiding behind
18 a curtain in a patient's room. When Respondent was found by the co-worker, she quickly left the
19 room. Respondent then came back a few minutes later and asked the co-worker about the
20 physician's orders. The co-worker explained that the physician was finishing writing the orders
21 in the post-anesthesia recovery room (PAR). Respondent again left the patient's room and then
22 called the operating room nurse and asked her where the physician's orders were. The operating
23 room nurse reiterated to Respondent what the other co-worker had just told her.

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PRAYER

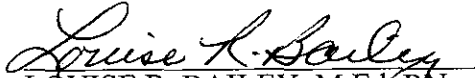
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 545229, issued to Judy Lynn Hester, also known as Judy Baxter;

2. Ordering Judy Lynn Hester, also known as Judy Baxter to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: 8/11/09


LOUISE R. BAILEY, M.Ed, RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SA2008303525
Accusation